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REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE
FIFTY-FOURTH SESSION OF THE COMMISSION

DRAFT REPORT OF THE COMMISSION

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* Documents E/CN.4/1998/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, will be contained in documents E/CN.4/1998/L.11 and addenda.

1998/1. Question of the violation of human rights in the occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Occupied Palestinian Territory, including Jerusalem, and other occupied Arab territories,

Recalling also the General Assembly resolutions on Israeli violations of human rights in the Occupied Palestinian Territory, including Jerusalem, occupied since 1967, and noting Assembly resolution ES-10/4 of 13 November 1997 in which the Assembly reiterated its recommendation that the High Contracting Parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War convene a conference on measures to enforce the Convention in the Occupied Palestinian Territory, including Jerusalem, and to ensure its respect in accordance with common article 1 of the Geneva Conventions,

Recalling further the provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23),

Taking note of the report (E/CN.4/1998/17) of the Special Rapporteur, Mr. Hannu Halinen, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993,

Taking note also of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and

Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, including the latest (A/52/131 and Add.1 and Add.2),

Noting with great concern the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Occupied Palestinian Territory, including Jerusalem, and other Arab territories occupied by Israel since 1967,

Gravely concerned at the stagnation of the peace process because of the contempt of the Government of Israel for the principles on which this process was based, and its refusal to carry out its commitments in line with the agreements it signed with the Palestine Liberation Organization,

Recalling all its previous resolutions on the subject, including the latest, resolution 1997/1 of 26 March 1997,

1. Condemns the continued violations of human rights in the Occupied Palestinian Territory, including East Jerusalem, in particular the continuation of acts of wounding and killing such as that which took place on 10 March 1998 when Israeli occupation soldiers shot dead three Palestinian workers and wounded nine others, one of them seriously, and the subsequent opening of fire on Palestinian civilians after the incidents of the following days, in addition to the detention of thousands of Palestinians without trial, the continuation of the confiscation of Palestinian lands, the extension and the establishment of Israeli settlements thereon, the confiscation of Palestinians' property and expropriation of their land, the demolition of Palestinian homes and the uprooting of fruit trees, and calls upon Israel to cease these acts immediately since these practices constitute a major obstacle in the way of peace;

2. Also condemns the opening of a tunnel under the Al Aqsa mosque, the continuation of the building of an Israeli settlement on Jabal Abu Ghenaïm in Occupied East Jerusalem in addition to other settlements in the West Bank, the expropriation of Palestinian homes in Al-Amoud district in Jerusalem, the revocation of identity cards of the citizens of the Palestinian city of Jerusalem and forcing them to live outside their home with the aim of the

Judaization of Jerusalem, and calls upon the Government of Israel to close the tunnel and to put an end immediately to these practices;

3. Further condemns the use of torture against Palestinians during interrogation, which the Israeli High Court of Justice has legitimized, and calls upon the Government of Israel to refrain immediately from the current interrogation practices and to work on abolishing the above-mentioned legitimization;

4. Reaffirms that all the Israeli settlements in the Palestinian territories occupied since 1967, including East Jerusalem, are illegal and should be dismantled in order to achieve a just, permanent and comprehensive peace in the region of the Middle East;

5. Also reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical and demographic status of the city of East Jerusalem from its situation prior to the June 1967 war to be illegal and void;

6. Further reaffirms the great importance of the convening of a conference by the High Contracting Parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in accordance with General Assembly resolution ES-10/4;

7. Calls upon Israel to cease immediately its policy of enforcing collective punishments, such as demolition of houses and closure of the Palestinian territory, measures which constitute flagrant violations of international law and international humanitarian law, endanger the lives of the Palestinians and also constitute a major obstacle in the way of peace;

8. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories, and to respect the bases of international law, the principles of international humanitarian law, its international commitments and the agreements it signed with the Palestine Liberation Organization;

9. Also calls upon Israel to withdraw from the Palestinian territories, including East Jerusalem, and the other Arab territories occupied since 1967, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights;

10. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-fifth session;

11. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

12. Decides to consider the question at its fifty-fifth session under the same agenda item, as a matter of high priority.

20th meeting
27 March 1998

[Adopted by a roll-call vote of 31 votes to 1
with 20 absentions. See chap. IV.]

1998/2. Human rights in the occupied Syrian Golan

The Commission on Human Rights,

Deeply concerned at the suffering of the Syrian citizens in the occupied Syrian Golan due to the violation of their fundamental and human rights since the Israeli military occupation of 1967,

Recalling Security Council resolution 497 (1981) of 17 December 1981,

Recalling also all relevant General Assembly resolutions, including the latest, resolution 52/68 of 10 December 1997, in which the Assembly, inter alia, called upon Israel to comply with Security Council resolution 497 (1981), to put an end to its practices violating the rights of the Syrian citizens in the occupied Syrian Golan and to put an end to its occupation of the occupied Syrian Golan,

Reaffirming once more the illegality of Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that territory,

Reaffirming the principle of non-acquisition of territory by force in accordance with the Charter of the United Nations and the principles of International Law,

Taking note with deep concern of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/52/131/Add.2) and, in this connection, deploring the Israeli settlement in the occupied Arab territories and regretting Israel's constant refusal to cooperate with and to receive the Special Committee,

Guided by the relevant provisions of the Charter of the United Nations, international law and the Universal Declaration of Human Rights, and reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the relevant provisions of the Hague Conventions of 1899 and 1907, on the occupied Syrian Golan,

Reaffirming the importance of the peace process which started in Madrid on the basis of Security Council resolutions 242 (1967), 338 (1973) and 425 (1978) and the principle of land for peace, which aims at the establishment of a just and comprehensive peace in the Middle East,

Expressing its concern about the stoppage of the peace process on the Syrian and Lebanese tracks, and hoping that the commitments and guarantees reached during the previous talks will be respected in order that the talks may resume as soon as possible on both tracks,

Reaffirming its previous relevant resolutions, the most recent being resolution 1997/2 of 26 March 1997,

1. Calls upon Israel, the occupying Power, to comply with the relevant resolutions of the General Assembly and of the Security Council, particularly resolution 497 (1981), in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration on the occupied Syrian Golan is null and void and without international legal effect, and demanded that Israel should rescind forthwith its decision;
2. Also calls upon Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan, and emphasizes that the displaced persons of the population of the occupied Syrian Golan must be allowed to return to their homes and to recover their properties;

3. Further calls upon Israel to desist from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the occupied Syrian Golan and to desist from its repressive measures against them, and from all other practices mentioned in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories;

4. Determines that all legislative and administrative measures and actions taken or to be taken by Israel, the occupying Power, that purport to alter the character and legal status of the occupied Syrian Golan are null and void, constitute a flagrant violation of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and have no legal effect;

5. Calls once again upon Member States not to recognize any of the legislative or administrative measures and actions referred to in the present resolution;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its fifty-fifth session;

7. Decides to include in the provisional agenda of its fifty-fifth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

20th meeting
27 March 1998

[Adopted by a roll-call vote of 33 votes to 1,
with 19 abstentions. See chap. IV.]

1998/3. Israeli settlements in the occupied Arab territories
The Commission on Human Rights,

Reaffirming that all member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem,

Recalling its previous resolutions, most recently resolution 1997/3 of 26 March 1997, in which, inter alia, it reaffirmed the illegality of the Israeli settlements in the occupied territories,

1. Welcomes the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/1998/17);

2. Expresses its grave concern

(a) At the Israeli settlement activities, including the expansion of the settlements, the installation of settlers in the occupied territories, the expropriation of land, the demolition of houses, the confiscation of property, the expulsion of local residents and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, since they are illegal, constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and are a major obstacle to peace;

(b) At and strongly condemns all acts of terrorism, whilst calling upon all parties not to allow any acts of terrorism to affect the ongoing peace process negatively;

3. Calls upon the Government of Israel

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 1997/3 of 26 March 1997;

(b) To match its stated commitment to the peace process with concrete actions to fulfil its obligations and cease completely its policy of expanding the settlements and related activities in the occupied territories, including East Jerusalem;

(c) To forgo and prevent any new installation of settlers in the occupied territories.

20th meeting
27 March 1998

[Adopted by a vote of 51 votes to 1,
with no abstentions. See chap. IV.]

1998/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Taking into consideration the provisions of the Declarations on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Guided by the provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right to self-determination of all peoples and especially those subject to foreign occupation,

Recalling Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling also General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian

people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard, including the latest, resolution 1997/4 of 26 March 1997,

Bearing in mind the continued reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People submitted to the Security Council and the General Assembly,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a jus cogens in international law,

Recalling that the foreign occupation by the armed forces of a State of the territory of another State constitutes an obstacle to and a grave violation of human rights according to Part I, paragraph 30, of the Vienna Declaration and Programme of Action, and an act of aggression and a crime against the peace and security of mankind according to General Assembly resolution 3314 (XXIX) of 14 December 1974,

Affirming that the peace process, which aims to achieve a just, comprehensive and lasting peace, aims at the same time to enable the Palestinian people to achieve their national rights and, principally, their right to self-determination free of external intervention as a basic condition for establishing the long-sought peace,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference;
2. Calls upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law, and to withdraw from the Occupied Palestinian Territory, including East Jerusalem, and the other Arab territories which it has occupied since 1967 by military force, in accordance with the relevant United Nations resolutions, so as to enable the Palestinian people to exercise their universally recognized right to self-determination;

3. Requests the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fifty-fifth session, all information pertaining to the implementation of the present resolution by the Government of Israel;

4. Decides to include in the provisional agenda of its fifty-fifth session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item, as a matter of high priority.

20th meeting
27 March 1998

[Adopted by a roll-call vote of 34 votes to 1,
with 18 abstentions. See chap. VII.]

1998/5. Question of Western Sahara

The Commission on Human Rights,

Having considered in depth the question of Western Sahara,

Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling its resolution 1997/5 of 26 March 1997,

Recalling also the agreement in principle given on 30 August 1988 by the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro to the proposals of the Secretary-General of the United Nations and the then Chairman of the Assembly of Heads of State and Government of the Organization of African Unity in the context of their joint mission of good offices,

Recalling further Security Council resolutions 658 (1990) of 27 June 1990 and 690 (1991) of 29 April 1991, by which the Council approved the settlement plan for Western Sahara,

Recalling all the Security Council and General Assembly resolutions relating to the question of Western Sahara,

Taking note with satisfaction of the entry into force of the ceasefire in Western Sahara in accordance with the proposal of the Secretary-General and stressing the importance it attaches to the maintenance of the ceasefire as an integral part of the settlement plan,

Reaffirming the responsibility of the United Nations towards the people of Western Sahara, as provided for in the settlement plan,

Taking note with satisfaction of the agreements reached by the two parties during their private direct talks aimed at the implementation of the settlement plan, and stressing the importance it attaches to a full, fair and faithful implementation of the settlement plan and the agreements aimed at its implementation,

Taking note of Security Council resolution 1131 (1997) of 29 September 1997,

Recalling that the General Assembly has examined the relevant chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/51/23 (part V), chap. IX),

Having also examined the report of the Secretary-General (A/52/364 and Add.1),

1. Takes note of the report of the Secretary-General;
2. Takes note with satisfaction of the agreements reached between the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro for the implementation of the settlement plan during their direct private talks under the auspices of Mr. James Baker III, the Personal Envoy of the Secretary-General, and urges the parties to implement those agreements fully and faithfully;
3. Urges the two parties to continue their cooperation with the Secretary-General and his Personal Envoy and to refrain from undertaking anything that would undermine the implementation of the settlement plan and the agreements reached for its implementation;
4. Commends the Secretary-General and his Personal Envoy for their efforts in reaching these agreements as well as the two parties for the cooperation they have shown, and urges them to continue this cooperation in order to facilitate the speedy implementation of the settlement plan;
5. Reaffirms the responsibility of the United Nations towards the people of Western Sahara, as provided for in the settlement plan;

6. Reiterates its support for further efforts of the Secretary-General for the organization and the supervision by the United Nations, in cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara, in conformity with Security Council resolutions 658 (1990) and 690 (1991), by which the Council approved the settlement plan for Western Sahara;

7. Takes note of Security Council resolution 1131 (1997);

8. Notes that the General Assembly has requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara, bearing in mind the positive ongoing implementation of the settlement plan, and to report thereon to the General Assembly at its fifty-third session;

9. Also notes that the General Assembly has invited the Secretary-General to submit to it at its fifty-third session a report on the application of its resolution 52/75 of 10 December 1997.

20th meeting
27 March 1998

[Adopted without a vote. See chap. VII.]

1998/6. The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The Commission on Human Rights,

Noting General Assembly resolution 52/112 of 12 December 1997 and recalling its resolution 1995/5 of 17 February 1995,

Recalling all of its relevant resolutions, in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling also the relevant resolutions of the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign

equality, political independence, territorial integrity of States, self-determination of peoples, the non-use of force or threat of use of force in international relations and non-interference in the affairs within the domestic jurisdiction of States,

Reaffirming also that by virtue of the principle of self-determination, as developed in the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Alarmed and concerned about the danger which the activities of mercenaries constitute to peace and security in developing countries, particularly in Africa and in small States,

Deeply concerned about the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from mercenary international criminal activities,

Convinced that it is necessary for Member States to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly in 1989, and to develop and maintain international cooperation among States for the prevention, prosecution and punishment of mercenary activities,

Convinced also that, notwithstanding the way in which mercenaries or mercenary-related activities are used or the form they take to acquire some semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. Takes note of the report of the Special Rapporteur on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (E/CN.4/1998/31);

2. Reaffirms that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. Urges all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take necessary legislative measures to ensure that their territories and

other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to destabilize or overthrow the Government of any State or threaten the territorial integrity and political unity of sovereign States, or to promote secession;

4. Calls upon all States that have not yet done so to consider taking necessary action to sign or to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

5. Welcomes the cooperation extended by those countries that have invited the Special Rapporteur of the Commission on Human Rights on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination;

6. Also welcomes the adoption by some States of national legislation that restricts the use of mercenaries;

7. Decides to extend the mandate of the Special Rapporteur for three years and also decides that the Special Rapporteur, in carrying out his mandate, shall seek and receive credible and reliable information from Governments, specialized agencies and intergovernmental and non-governmental organizations;

8. Requests the Secretary-General to provide the Special Rapporteur with all necessary assistance;

9. Urges all States to cooperate fully with the Special Rapporteur in the fulfilment of his mandate;

10. Requests the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of mercenary activities on the right to self-determination and, when requested and where necessary, to render advisory services to States that are affected by the activities of mercenaries;

11. Requests the Secretary-General to invite Governments to make proposals towards a clearer legal definition of mercenaries;

12. Requests the Special Rapporteur to report, with specific recommendations, his findings on the use of mercenaries to undermine the right to self-determination to the Commission at its fifty-fifth session;

13. Decides to consider at its fifty-fifth session the question of the use of mercenaries as a means of violating human rights and impeding the

exercise of the right of peoples to self-determination under the agenda item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

20th meeting

27 March 1998

[Adopted by a roll-call vote of 35 votes to 9,
with 8 abstentions. See chap. VII.]
